

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/12/2011 has been entered.

Response to Arguments

2. Applicant's arguments filed 05/12/2011 have been fully considered but they are not persuasive.

Applicant argue that Bird fails to teach or suggest all the elements of independent claims 1, 14, and 26.

To support the above argument, applicants state that Bird operates in an environment in which a message from a single sender is delivered to multiple of recipients. The status of delivery to each recipient is provided back to the sender in a job report. This job report informs the sender if the message was successfully delivered. The present application, on the other hand, provides a hierarchical response detailing the short messages that were successfully delivered and the short messages that were unsuccessfully delivered. For short messages that were unsuccessfully delivered, the recited elements further provide "a recipient element, wherein the recipient element is included when a recipient is associated with an error that caused the unsuccessful delivery of the two or more short messages;" "an error cause element comprising an

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indication of a component in the web service that caused of the error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered;" and "a message element that contains a message describing the error." Bird fails to teach or suggest inclusion of such information in the job report.

Examiner respectfully disagrees.

First, it should be noted that applicants' arguments regarding Chesnais involves the subject matter that the examiner has indicated that is not being disclosed by Chesnais. As such, Applicants arguments are moot, vis-à-vis Chesnais.

Regarding Bird, examiner, as indicated above, respectfully disagrees with applicants.

It should also be noted that examiner has not given any weight to "hierarchical" word disclosed in applicants arguments since there is no such reading in the claims themselves. Furthermore, in Bird, there will be a report of the messages status, i.e., successfully delivered and failure and reason for failure, as such, the report is in hierarchical form.

Bird discloses a process of accepting a message from a sender and distributing multiple copies of the message to recipients is referred to as a job. When a job is complete, the message distribution system automatically prepares a job status report for the sender. This report summarizes the outcome of the job (i.e., how many recipient messages were delivered successfully and how many failed) and provides details of success/failure **on an individual recipient basis** (e.g., how many times delivery to a particular recipient was tried and **why it failed**) (paragraph 226).

As can be seen from the preceding paragraph, the report provides individual details in respect to each recipient. Such disclosure does read on the claims as amended.

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Regarding applicants' arguments as related to claims 10, 11, 22, 23, Examiner has shown above that the combination of Chesnais with Bird does disclose all the limitations of independent claim 1.

Miralles was cited for the deficiency of the combination of Chesnais with Bird for the limitation of "determining whether a sender of the short message is authentic and authorized to send the short message; and if the sender of the short message is authentic and authorized to send the short message, sending the content data to the mobile device."

As can be appreciated from the previous Office Action, paragraphs 65-74 of Miralles were cited for those limitations. Examiner fails to see where applicants have addressed those specific disclosures.

The above was the only deficiency in the combination of Bird and Chesnais.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 26-34 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter. In particular, regarding "Subject Matter Eligibility of Computer Readable Media," The Official Gazette (O.G.) of January 26, 2010, states:

The United States Patent and Trademark Office (USPTO) is obliged to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. See *In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). **The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary meaning of computer readable media, particularly when the specification is**

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silent. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal per se, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter (emphasis added). See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101, Aug. 24, 2009; p. 2.

The USPTO recognizes that applicants may have claims directed to computer readable media that cover signals per se, which the USPTO must reject under 35 U.S.C. § 101 as covering both non-statutory subject matter and statutory subject matter. In an effort to assist the patent community in overcoming a rejection or potential rejection under 35 U.S.C. § 101 in this situation, the USPTO suggests the following approach.

A claim drawn to such a computer readable medium that covers both transitory and non-transitory embodiments may be amended to narrow the claim to cover only statutory embodiments to avoid a rejection under 35 U.S.C. § 101 by adding the limitation "non-transitory" to the claim.

Such an amendment would typically not raise the issue of new matter, even when the specification is silent because the broadest reasonable interpretation relies on the ordinary and customary meaning that includes signals per se. The limited situations in which such an amendment could raise issues of new matter occur, for example, when the specification does not support a non-transitory embodiment because a signal per se is the only viable embodiment such that the amended claim is impermissibly broadened beyond the supporting disclosure. See, e.g., *Gentry Gallery, Inc. v. Berkline Corp.*, 134 F.3d 1473 (Fed. Cir. 1998).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 7, 14, 19, 26, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais et al. (US 20020087704 A1) (Chesnais) in view of Bird (previously disclosed).

Regarding claims 1, 14, and 26 Chen discloses a method, system, mobile device messaging and a computer-readable medium comprising: a processor and a memory (inherent part of a system) and comprising

receiving, at a web service client, a request from a user to send content to a mobile device; collecting, from an originating system of the user, information including content data to be sent to the mobile device; generating two or more short messages encapsulating the content data, the short message formatted to be readable by a web service and the content data formatted to be readable by the mobile device; and sending the two or more short messages to the web service for delivery to the mobile device---

---Chesnais discloses that a message which is to be delivered to a recipient (e.g., a subscriber or a user) can be generated at a sender communications device 208. The system 200, which receives the message generated by the sender, is responsible for directing (i.e., sending) the message to at least one of the recipient's communications device 210. A message (or messages) may be delivered via the system 200 to the recipient within a variety of communication protocols that may be delivered over a variety of communication channels 220. Amongst others, system 200 may be capable of sending messages formatted in the following communication protocols: SMTP, HTML, XML, HDML, WML, VXML, SNPP, SMPP, SIP,

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SIMPLE, SMDI, Instant Messaging (e.g., AOL IM protocol, Yahoo IM protocol, Jabber IM protocol, Microsoft Messenger, etc.), wireless telephone **Short Messaging Service** (using SMPP and SNPP, for example) and a Sender Application Program Interface using http and socket protocols. Moreover, system 200 as illustrated may be capable of sending messages to communications devices 210 via an email communications channel 220a, an instant messaging communications channel 220b, an HDML/WML formatted communications channel 220c, a **short messaging service** (SMS) communications channel 220d (see paragraph 38).

Although Chesnais discloses a method, system, and medium as described, Chesnais does not specifically disclose a method, system, and medium comprising receiving a response readable by the originating system that indicates the status of delivery of the two or more short messages, wherein said response has a first result element and a second result element, and further wherein each said result element has one or more child elements representing details of said result element, wherein, the first result element further comprises: a first child count element of the first result element, wherein the first child count element indicates a number of the two or more short messages delivered successfully; wherein the second result element further comprises a second child count element of the second result element wherein the second child count element indicates a number of the two or more short messages unsuccessfully delivered a recipient element, wherein the recipient element is included when a recipient is associated with an error that caused the unsuccessful delivery of the two or more short messages; an error cause element comprising an indication of the cause of the error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered; and a message element that contains a message describing the error; parsing the received response into individual elements; and notifying the

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web service client of the success or failure of the two or more messages based on the individual elements from the parsed received response.

However, Bird discloses that a whole process of accepting a message from a sender and distributing multiple copies of the message to recipients is referred to as a job. When a job is complete, the message distribution system automatically prepares a job status report for the sender. This report summarizes the outcome of the job (i.e., how many recipient messages were delivered successfully and how many failed) and provides details of success/failure on an individual recipient basis (e.g., how many times delivery to a particular recipient was tried and why it failed) (paragraph 226).

Thus, Bird discloses that the delivery status report contains results elements (i.e., successful and unsuccessful). And, each result element contain one or more child elements, and generating a child element for a one or more of said child elements (i.e., why the message failed).

Furthermore, Bird discloses a reporting component is responsible for receiving the delivery reports from the carrier interfaces, and combining the delivery reports together into one common status format for storage into a relational database. The reporting component also comprises of graphical interfaces and tools for use by originators to generate and view integrated delivery reports (either viewing them via a Web Based HTML interface, or receiving them via Email). In fig. 7 it illustrated of a process 700 of how the different carrier reports are parsed and stored in a database to enable a web site to present integrated reports to an originator. In step 710, processing commences by submitting a messaging job. In step 712, recipient information is stored in the database of recipient data 714. In step 716, messages are sent to the carrier via FTP.

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In step 718, the report is received from the carrier via FTP. In step 720, the carrier report is parsed and the recipient transmission results are stored in the database. Transmission ends in step 722. From step 720, the status is updated in the recipient database (see paragraphs 172-173).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Chesnais with the teachings described by Bird to arrive at the claimed invention in order to provide a more efficient utilization of SMS to accommodate an increase in subscribers and their usage.

Regarding claims 7, 19, and 32 Chesnais discloses a method and system (see claims 1 and 14 rejection) wherein generating a short message comprises generating an extensible Markup Language (XML) file including the content data contained in a Short Message Service (SMS) message (see paragraph 38).

7. Claim 10-11 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais in view of Miralles (previously disclosed) and further in view Bird.

Regarding claims 10 and 22, Chen discloses a method and system comprising receiving two or more short messages from a web service client, the two or more short messages formatted to be readable by a web service and containing content data formatted to be readable by a mobile device, wherein the content data was specified by a user request to be sent from an originating system of the user to the mobile device---

---Chesnais discloses that a message which is to be delivered to a recipient (e.g., a subscriber or a user) can be generated at a sender communications device 208. The system 200,

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which receives the message generated by the sender, is responsible for directing (i.e., sending) the message to at least one of the recipient's communications device 210. A message (or messages) may be delivered via the system 200 to the recipient within a variety of communication protocols that may be delivered over a variety of communication channels 220. Amongst others, system 200 may be capable of sending messages formatted in the following communication protocols: SMTP, HTML, XML, HDML, WML, VXML, SNPP, SMPP, SIP, SIMPLE, SMDI, Instant Messaging (e.g., AOL IM protocol, Yahoo IM protocol, Jabber IM protocol, Microsoft Messenger, etc.), wireless telephone **Short Messaging Service** (using SMPP and SNPP, for example) and a Sender Application Program Interface using http and socket protocols. Moreover, system 200 as illustrated may be capable of sending messages to communications devices 210 via an email communications channel 220a, an instant messaging communications channel 220b, an HDML/WML formatted communications channel 220c, a **short messaging service** (SMS) communications channel 220d (see paragraph 38).

Although Chesnais discloses a method and system as described, Chesnais does not specifically disclose a method and system comprising determining whether a sender of the short message is authentic and authorized to send the short message; and if the sender of the short message is authentic and authorized to send the short message, sending the content data to the mobile device.

However, Miralles discloses a method and system comprising determining whether a sender of the short message is authentic and authorized to send the short message based on sender information in the short message (see paragraphs 65-74); and if the sender of the short

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message is authentic and authorized to send the short message, sending the content data from the short message to the mobile device (see paragraphs 65-74).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to provide a system wherein high costs and long implementation times can be avoided.

Although the combination discloses a method, system, and medium as described, the combination does not specifically disclose a method, system, and medium comprising receiving a response readable by the originating system that indicates the status of delivery of the two or more short messages, wherein said response has a first result element and a second result element, and further wherein each said result element has one or more child elements representing details of said result element, wherein, the first result element further comprises: a first child count element of the first result element, wherein the first child count element indicates a number of the two or more short messages delivered successfully; wherein the second result element further comprises a second child count element of the second result element wherein the second child count element indicates a number of the two or more short messages unsuccessfully delivered a recipient element, wherein the recipient element is included when a recipient is associated with an error that caused the unsuccessful delivery of the two or more short messages; an error cause element comprising an indication of the cause of the error that resulted in unsuccessful delivery of the short messages unsuccessfully delivered; and a message element that contains a message describing the error; parsing the received response into

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individual elements; and notifying the web service client of the success or failure of the two or more messages based on the individual elements from the parsed received response.

However, Bird discloses that a whole process of accepting a message from a sender and distributing multiple copies of the message to recipients is referred to as a job. When a job is complete, the message distribution system automatically prepares a job status report for the sender. This report summarizes the outcome of the job (i.e., how many recipient messages were delivered successfully and how many failed) and provides details of success/failure on an individual recipient basis (e.g., how many times delivery to a particular recipient was tried and why it failed) (paragraph 226).

Thus, Bird discloses that the delivery status report contains results elements (i.e., successful and unsuccessful). And, each result element contain one or more child elements, and generating a child element for a one or more of said child elements (i.e., why the message failed).

Furthermore, Bird discloses a reporting component is responsible for receiving the delivery reports from the carrier interfaces, and combining the delivery reports together into one common status format for storage into a relational database. The reporting component also comprises of graphical interfaces and tools for use by originators to generate and view integrated delivery reports (either viewing them via a Web Based HTML interface, or receiving them via Email). In fig. 7 it illustrated of a process 700 of how the different carrier reports are parsed and stored in a database to enable a web site to present integrated reports to an originator. In step 710, processing commences by submitting a messaging job. In step 712, recipient information is stored in the database of recipient data 714. In step 716, messages are sent to the carrier via FTP.

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In step 718, the report is received from the carrier via FTP. In step 720, the carrier report is parsed and the recipient transmission results are stored in the database. Transmission ends in step 722. From step 720, the status is updated in the recipient database (see paragraphs 172-173).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Chesnais with the teachings described by Bird to arrive at the claimed invention in order to provide a more efficient utilization of SMS to accommodate an increase in subscribers and their usage.

Regarding claims 11 and 23, Chesnais discloses a method and system wherein generating a short message comprises generating an extensible Mark-up Language (XML) file including the content data contained in a Short Message Service (SMS) message (see paragraph 38).

8. Claims 2-4, 6, 15-16, 18, 27-29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais and Bird, further in view of Miralles.

Regarding claims 2 and 27, the combination of Chesnais and Bird discloses a method and a computer-readable medium (see claim 1 rejection) further comprising receiving the one or more short messages at a web service (see Chesnais' paragraphs 38 and 39).

Although the combination discloses a method and a computer readable medium as described, the combination does not specifically disclose a method and a computer readable medium comprising determining whether a sender of the short message is authentic and authorized to send the short message based on sender information in the short message; and if the

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sender of the short message is authentic and authorized to send the short message, sending the content data from the short message to the mobile device.

However, Miralles discloses a method and a computer readable medium comprising determining whether a sender of the short message is authentic and authorized to send the short message based on sender information in the short message (see paragraphs 65-74); and if the sender of the short message is authentic and authorized to send the short message, sending the content data from the short message to the mobile device (see paragraphs 65-74).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to provide a system wherein high costs and long implementation times can be avoided.

Regarding claims 3, 15, and 28, the combination discloses a method and system as described above (see claims 1 and 14 rejection).

Although the combination discloses a method and system as described, the combination does not specifically disclose a method and system wherein collecting information to be sent to the mobile device further comprises collecting sender information, the sender information comprising a sender identification and a sender password.

However, Miralles discloses a method and system wherein collecting information to be sent to the mobile device further comprises collecting sender information, the sender information comprising a sender identification and a sender password (see paragraph 65).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to allow secure connection with the system.

Regarding claims 4, 16, and 29, the combination discloses a method and system as described above (see claims 1 and 14 rejection).

Although the combination discloses a method and system as described above, the combination does not specifically disclose a method and system wherein collecting information to be sent to the mobile device further comprises collecting destination information, the destination information comprising a service provider and a cellular telephone number of a destination mobile device.

However, Miralles discloses a method and system wherein collecting information to be sent to the mobile device further comprises collecting destination information, the destination information comprising a service provider and a cellular telephone number of a destination mobile device (see paragraph 18).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to provide a system wherein high costs and long implementation times can be avoided.

Regarding claims 6, 18, and 31, the combination discloses a method and system as described above (see claims 1 and 14 rejection).

Although the combination discloses a method and system as described above, the combination does not specifically disclose a method and system wherein generating a short

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message further comprises: determining whether the content data is longer than a pre-determined size for the short message; responsive to determining the content data is longer than the pre-determined size for the short message, determining whether to split the content data into multiple portions; responsive to determining to split the content data into multiple portions, splitting the content data into multiple portions, each portion not longer than the predetermined size for the short message; and encapsulating each portion in a separate short message.

However, Miralles discloses a method and system wherein short message composition block 33, if necessary, performs segmentation of the message. In this event, in order to know the maximum size of the message admitted by the mobile telephony network, it is calculated from the DCS parameter and the coding of the characters. The short message composition block recovers the short message creation data: DCS, NPI, etc. and builds the new short messages. In the case in which the user data header indicator is not specified in the received message, the value of this is inserted, depending on whether the message has had to be segmented for exceeding the maximum size and the decoded text is introduced in the new short messages. Next the composed short messages are sent to short message transmission block 36 which establishes connection with the SMSC 5 for transmission of the messages to GSM network 10 (see paragraphs 70-72)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to provide a system wherein high costs and long implementation times can be avoided.

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9. Claims 5, 8-9, 17, 20, 30, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais and Bird in view of Wood et al. (Wood), International Publication No. WO 03/001819 A2 (cited by applicant).

Regarding claims 5, 8-9, 17, 20-21, 30, 33-34, the combination discloses a method and system as described above (see claims 1, 14 rejection).

Although the combination discloses a method and system wherein collecting information to be sent to the mobile device further comprises collecting delivery information, the combination does not specifically disclose a method and system wherein the delivery information comprising a time and date for the web service to send the content data to the mobile device and wherein the XML file (see Chesnais' paragraph 38) including data contained in a MMS message, and sending the short message using SOAP.

However, Wood discloses a method and system wherein the delivery information comprising a time and date for the web service to send the content data to the mobile device (i.e., schedule) (see page 17, line 3), and including data contained in a MMS message (see page 17, lines 8-16), and sending the short message using SOAP (see page 34, lines 9-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to ensure the proper sending of the message.

10. Claims 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnais, Bird, and Miralles, further in view of Wood.

The combination discloses a method and system as described.

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Although the combination discloses a method and system as described above, the combination does not specifically disclose a method and system wherein the XML file (see paragraph 38 of Chesnais) including data contained in a MMS message.

However, Wood discloses a method including data contained in a MMS message (see page 17, lines 8-16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described to arrive at the claimed invention. A motivation for doing so would have been to ensure the proper sending of the message.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PIERRE-LOUIS DESIR whose telephone number is (571)272-7799. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571)272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PIERRE-LOUIS DESIR/
Primary Examiner, Art Unit 2617